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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,160	08/24/2006	Rex W. Newkirk	101927/35	5774
27220 7590 09/23/2010 BLAKE, CASSELS & GRAYDON, LLP 45 O'CONNOR ST., 20TH FLOOR OTTAWA, ON K1P 1A4 CANADA				
EXAMINER				
WEIER, ANTHONY J				
ART UNIT		PAPER NUMBER		
1781				
NOTIFICATION DATE		DELIVERY MODE		
09/23/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

karen.forgie@blakes.com

Office Action Summary

Application No.

10/535,160

Applicant(s)

NEWKIRK ET AL.

Examiner

Anthony Weier

Art Unit

1781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maenz et al with evidence from Vincent Corp. literature.

Maenz et al discloses a process and use of a combination of apparatus wherein oilseed material is mixed with water and extracted wherein the mixture obtained is then pass through a compression belt filter press, inherently providing a chamber at least partially bound by filter media, and the presscake resulting is extracted a second time. Said presscake, a solid residue, is then mixed with water and passed through a dewatering screw press (e.g. Example 1, Model CP-6, see Vincent Corporation literature).

The dewatering screw press is considered to be an impeller-type filter since the screw therein gives a rotation movement to material wherein an impeller is considered to be a part of an apparatus designed to impart movement by rotation. It should be further noted that the dewatering screw press used in Maenz et al results in production of an extract further processed to remove small solids from same rich in carbohydrate and protein as same originates from canola oilseed meal that has been previously defatted via hexane extraction (e.g. Example 1).

It should be noted that the impeller type filter of Maenz et al further discloses filter media that forms a portion of the vessel boundary with an auger driven impeller disposed for movement therein closely fitting to said portion (see the screw spindle assembly and screen employed in the Vincent horizontal press). In addition, the Vincent Horizontal press used in Maenz et al employs mesh filtration including apertures as low as 0.01" but also typically between 0.020 and 0.095" wherein same has a size which would permit some fine particles to pass. Clearly, this is the case since Maenz et al further treats the extract from the first extraction with the screw press to remove pulp therefrom (col. 9, line 3).

The claims differ in that the instant claims require the impeller filtration step to occur first followed by compression filtration. Maenz et al discloses the use of both of these steps but in reverse order. However, it is not seen where the difference in order of same would provide for a patentable distinction, and, absent a showing of unexpected results, it would have been obvious to one having ordinary skill in the art at the time of the invention to have applied either step first as a matter of preference depending on, for example, the order of apparatus already set up at the plant. Moreover, it would appear that the steps in reverse order provide the same product with no unexpected advantages realized for the step order in the instant claims over that employed in Maenz et al.

3. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maenz et al taken together with Heissenberger et al with evidence from Vincent Corp. literature.

Maenz et al is silent regarding the compression filter having the particular one

par filter belts directed toward one another such that same, while conveying the residue, gradually and progressively compresses same between the belts. Such format of compression filter is notoriously well known as taught, for example, by Maenz et al, and it would have been obvious to one having ordinary skill in the art at the time of the invention to have employed such compression filter means as a matter of preference among known compression filter alternatives.

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maenz et al taken together with Uchiyama with evidence from Vincent Corp. literature.

The claims further call for the compression filter and related chamber to have a piston adapted for compressing solid residue against a filter. However, such compression filter is notoriously well known as taught, for example, by Uchiyama (see Figure 1; element 30), and it would have been obvious to one having ordinary skill in the art at the time of the invention to have employed such compression filter means as a matter of preference among known compression filter alternatives.

Response to Arguments

5. Applicant's arguments filed 6/30/10 have been fully considered but they are not persuasive.

Applicant argues that the dewatering screw press of Maenz et al is not an impeller type filter and that same employs two compression steps rather than an impeller filtration step followed by a compression filtration step. However, the Vincent Horizontal Press employed in Maenz et al includes a portion that focuses on compression. However, the initial feeding of the material into the screw conveyor is

operated in an open system which may be operated in a manner at least in the feeding portion that does not require pressure or force-feeding. In fact, the Vincent document teaches that zero pressure is sought in the feeding section of the screw conveyor (see section entitled "Feeding" in the Vincent document). The feeder section where the treated material is picked up by the screw is not yet a compression stage; compression stages of the apparatus follow as the flights of the screw are reduced in pitch (see section entitled "Screw Configuration" in the Vincent document). It should be noted further that Maenz et al actually does disclose a compression step followed by treatment with the Vincent Screw Press which includes a pressure free directing of material through a filter at the point where the screw first interacts with the feed material (thus providing an impeller or impeller-like action) and followed by a series of compression stages within the screw press. Taking the terminology "impeller filtration" by its broadest reasonable interpretation and in view of the description of same on page 4 of the original specification, it is asserted that the initial portion of the Vincent Screw Press provides such function and falls within such terminology. That is, the initial portion of the screw (left most in the figure of the Vincent document) rotates and acts as blades passing close to a filter medium (see 360 degree screen) and wherein said blades sweep the material over the filter medium while minimizing compacting of the material on the screen (the Vincent document, again, attempts zero pressure in this area of the screw press which is also not considered one of the compression stages which follow later to the right along the screw).

All other arguments have been addressed in view of the rejections as set forth above.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Weier
Primary Examiner
Art Unit 1781

/Anthony Weier/
Primary Examiner, Art Unit 1781

Anthony Weier
September 16, 2010